

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 18 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME TAX

Versus

ROHITBHAI CHINUBHAI (HUF)

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Appearance:

MR B.B.NAIK with MR MANISH R BHATT for Petitioner  
MR JP SHAH for Respondent No. 1

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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE A.R.DAVE

Date of decision: 21/09/98

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The Income Tax Appellate Tribunal has referred the following question for the opinion of this Court under Section 256(1) of the Income Tax Act, 1961:-

"Whether, on the facts and in the circumstances

of the case, the Tribunal was right in law in coming to the conclusion that in computing the capital gains realised on sale of 300 shares of Rajesh Textile Mills Limited, depreciation in the value of share of Sayaji Mills Ltd. at Rs. 108.75 paise per share should have been allowed and that the capital gains should be recomputed by the Income-tax Officer on that basis?"

Similar question as the one which has been referred, has been considered and decided by us today in Income Tax Reference No. 420 of 1983 against the Revenue, by holding that while computing the cost of acquisition of the shares of Rajesh Textile Mills Limited which were offered in the ratio of 1:1 to the share-holders of Sayaji Mills Limited, the depreciation in the value of the shares of Sayaji Mills Limited, with which the issue of shares by Rajesh Textile Mills Limited was directly connected in view of the arrangement made between the two companies, of Rs. 108.75 paise per share suffered by the assessee who had acquired the right, was to be deducted and would go in to the working out of the cost of acquisition of the shares of Rajesh Textile Mills Limited. For the same reasons as have been given by us in our judgement in the said Income Tax Reference No. 420/83, we answer the question referred by the Tribunal in the affirmative against the Revenue and in favour of the assessee. The reference stands disposed of accordingly with no order as to costs.

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